

GAO

United States General Accounting Office
Washington, DC 20548

Office of
General Counsel

In Reply
Refer to: B-201303
December 12, 1980

The Honorable Alice Daniel
Assistant Attorney General
Civil Division
Department of Justice
Washington, D.C. 20530

Attention: David Epstein, Director
Commercial Litigation Branch

Dear Ms. Daniel:

Subject: Hagan v. United States
Court of Claims No. 601-80C
(Your reference AD:DE:KAFlynn:plm
154-601-80C)

On November 19, 1980, you requested our report on the subject petition filed November 5, 1980, wherein the plaintiff, a retired Foreign Service Officer, claims overtime compensation incident to his alleged performance of compensable overtime during the period February 19, 1971, through September 1, 1972.

Our records show that on August 25, 1976, the Assistant Secretary, Bureau of Administration, Department of State, submitted Mr. Hagan's claim to our Claims Division. By Certificate of Settlement Z-2714590, dated January 30, 1980, the Claims Division disallowed plaintiff's claim. We have enclosed copies of pertinent documents from the claim file.

It appears that the action filed by the plaintiff is barred by 28 U.S.C. 2501 (1976) which provides, in pertinent part, that "Every claim of which the Court of Claims has jurisdiction shall be barred unless the petition thereon is filed within six years after such claim first accrues."



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We note that the presentment of a claim to and a decision thereon by the General Accounting Office is not a prerequisite to suit and does not toll the running of the statute of limitations, 28 U.S.C. 2501. Iran National Airlines Corp. v. The United States, 175 Ct. Cl. 504 at 508 (1966) and Oregon Forest Fire Association, et al. v. The United States, 170 Ct. Cl. 308 at 317, 318 (1965).

Our records provide no evidence of anything which might form the basis of a counterclaim or setoff against the plaintiff.

If you should desire further assistance in this matter do not hesitate to contact me at 275-6404.

Sincerely yours,



David Agazarian
Attorney-Adviser

Enclosures